REMARKS

This is in response to the Office Action mailed February 10, 2005 in the above-identified application containing pending claims 1-10. In the Office Action, the specification was objected to for inclusion of a file path name on the bottom of the abstract. This path name is deleted with this Amendment, and this objection should be withdrawn. Also in the Office Action, claims 1, 2, 4-7, 9, and 10 were provisionally rejected as claiming the same invention as that of claims 1-8 of co-pending U.S. Patent Application No. 10,154,748 ("the '748 application"), while dependent claims 3 and 8 were objected to as being dependent upon a rejected base claim. In reliance on the following remarks, Applicant believes the present application containing claims 1-10 is in condition for allowance, and respectfully requests reconsideration and notice to that effect.

The invention defined by independent claim 1 of the present application is a method for recording and analyzing reliability data for **an aircraft**; and the invention defined by independent claim 6 of the present application is a system for recording and analyzing reliability data for **an aircraft**. Differently, independent claim 1 of the '748 is directed toward a method for recording and analyzing reliability data for **a member of a fleet**, and independent claim 5 of the '748 application is directed toward a system for recording and analyzing reliability data during a dynamically-planned maintenance check.

In the Office Action, it is noted that a member of a fleet includes an aircraft. However, this is not the proper test for double patenting. Rather, in determining whether a statutory double patenting rejection is proper, the question to ask is: "Is the same invention being claimed twice?" MPEP § 804 II.A. citing *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1984); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957). "A reliable test for double patenting under 35 U.S.C. 101 is whether a claim in the application could be literally infringed without literally infringing a corresponding claim in the patent." MPEP § 804 II.A. citing *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970). "If there is such an embodiment, then identical subject matter is not defined by both claims and statutory double patenting would not exist." MPEP § 804 II.A. For

example, the invention defined by a claim reciting a compound having a halogen substituent is not identical to a claim reciting the same compound except having a chlorine substituent in the place of the halogen because halogen is broader than chlorine. MPEP § 804 II.A.

Applying the above test, a claim in the '748 application could be literally infringed without literally infringing a claim in the present application. This is so because the claims of the '748 application are not limited to a method or a system for recording and analyzing reliability data of an aircraft. That is, the "member of a fleet" recited by claim 1 of the '748 application is not limited to an aircraft, and therefore is broader than the "aircraft" recited by the present application. Claim 5 is similarly not limited in application to an aircraft. Because the claims of the present application are not identical in scope with the claims of the '748 application, statutory double patenting does not exist and this rejection should be withdrawn.

In view of the above comments, it is believed that all claims in the present invention are in condition for allowance. Reconsideration and allowance of claims 1-10 is respectfully requested.

Respectfully submitted,

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